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November 22, 2005

VIA ELECTRONIC FILING

Ms. Marlene Dortch
Secretary
Federal Communications Commission
The Portals
445 12th Street SW
Washington DC 20554

Re: NOTICE OF EX-PARTE COMMUNICATION

In the Matter of Federal-State Joint Board on Universal Service, et. al.,
CC Dockets No. 96-45, 98-171, 90-571, 92-237, 99-200, 95-116, 98-170, 02-33, 95-20, 98-10 and NSD File No. L-00-72.

Dear Ms. Dortch:

The attached was filed earlier today in WC Docket 01-92 by counsel for the Intercarrier Compensation Forum ("ICF"). It is attached hereto such that it can also be included in the factual record for the universal service contribution mechanism reform proceeding referenced above. All the participants of and materials used during this meeting are included in the pages following this letter.

Should you have any questions regarding this letter or any of the attached, please feel free to contact me via the means most convenient for you.

Sincerely,

Attachment

Gary M. Epstein
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gary.epstein@lw.com

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November 22, 2005

Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Re: ***Ex Parte* Communication, *Developing Unified Intercarrier Compensation Regime*, CC Docket 01-92**

Dear Ms. Dortch:

On Monday, November 21, 2005, Gary Epstein of Latham & Watkins LLP, counsel for the Intercarrier Compensation Forum ("ICF"), together with Eric Einhorn, Mike Tan and Joel Lubin of AT&T Corp. met with Thomas Navin, Donald Stockdale, Tamara Preiss, Narda Jones, Jay Atkinson, Cathy Carpino, Ian Dillner, Chris Barnekov, Randy Clarke, Steve Morris, Jeremy Marcus, Amy Bender and Carol Pomponio of the Wireline Competition Bureau.

At the meeting, we discussed the ICF's position on the ICF's proposed universal service contribution mechanism contained in the ICF's overall plan and as reflected in the attached presentation.

Please direct any questions concerning this matter to me at (202) 637-2249.

Very truly yours,

Gary M. Epstein

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Intercarrier Compensation and Universal Service Reform Plan

Universal Service Contribution Mechanism

November 21, 2005

LATHAM & WATKINS LLP

The ICF Plan

- The ICF's proposed USF contribution mechanism is one aspect of a balanced comprehensive overall plan to reform intercarrier compensation.
- The ICF Plan results in an additional $2.7 billion in new explicit universal service support.
- See Appendix A to this presentation for additional details.

Preserving Universal Service

New Contribution Methodology

- The Plan replaces today's revenue-based system with a unit-based system that assesses unique working telephone numbers and non-switched, high-speed, dedicated network connections.
- This new methodology would be used to collect funding for all existing and new universal service support mechanisms.
- Unit assessments:
  - Each unique working telephone number assessed 1 unit.
    - All CMRS carriers, CRTCs, and CRTC competitors may phase this in for additional numbers in a residential household account, as follows:
      - In 2006, ½ unit
      - In 2007, 2/3 unit
      - In 2008, ¾ unit
      - In 2009 and thereafter, 1 unit
    - Numbers used for one-way, data-only paging services are assessed ½ unit.

Preserving Universal Service <u>**(cont'd)**</u>

- Residential DSL, cable modem and other high-speed, non-circuit-switched connections assessed 1 unit.
- Business, non-switched, dedicated network connections assessed between 1 and 100 units depending on capacity.
  - Non-switched, dedicated network connections with capacity of less than 1.5mbps assessed 1 unit.
  - Non-switched, dedicated network connections with capacity of at least 1.5mbps but less than 45mbps assessed 5 units.
  - Non-switched, dedicated network connections with capacity of at least 45mbps but less than 200mbps assessed 40 units.
  - Non-switched, dedicated network connections with capacity of 200mps or greater assessed 100 units.
  - At least triennially, FCC to examine whether these thresholds are commercially reasonable in light of advances in technology.

- The result:
  - Roughly $2.7 billion in newly explicit universal service support.
  - Approximately $0.93/month line item replaces current multiple USF recovery surcharges on consumer bill.

Guiding Principles for Sustainable USF Reform

- The assessment methodology should be technologically and competitively neutral.
- Carriers should be able to fully pass-through assessments to their customers.
- The assessment methodology should not drive customer purchasing decisions.
- The assessment methodology should assess retail end user customers.
- The assessment methodology should accommodate technological change.

Implementation

- **Numbers:** Under the ICF Plan, most universal service support funds would come from a monthly assessment on each "Unique Working Telephone Number."
  - Defined as a NANP number assigned to a specific end user that provides the ability to receive calls.
  - Requires VOIP services that permit inbound calling to contribute.
- **Connections:** A minority of support funds would come from assessment of high-speed, non-switched network connections.
  - Tiers established based on transmission capacity of recognizable, commonly-deployed services.
  - Obligation to contribute is borne by the provider that sells the connection to the end user.

Reporting Will Fit Within Current Form 499 Process

- 499 Forms can be used with minimal modifications.
- Similar to the current system for revenues, providers will file 499Q projections of their unique working telephone number (WTNs) units and assessable network access connection (NACs) units.
- Providers will true-up projections on an annual basis in the 499A.
- Providers will certify to the accuracy of their 499 filings.
- Carriers will need adequate time to prepare billing and reporting systems before the new methodology goes into effect.

NRUF Report Is Not Adequate

- Use of NRUF assigned numbers for USF contribution assessment would have the effect of inflating the reporting carrier's contributions based on services provided by a non-reporting carrier.
- Not all providers that sell services with telephone numbers to retail end users file NRUF Reports.
- As such, NRUF report is an inaccurate tool to assess whether the carrier filing the report controls the number. For example, numbers ported to other carriers and numbers acquired by other carriers through Type 1 interconnection and wholesale arrangements (e.g. UNE-P and Resale) are included in NRUF reports.

“Auditability” of WTNs and NACs

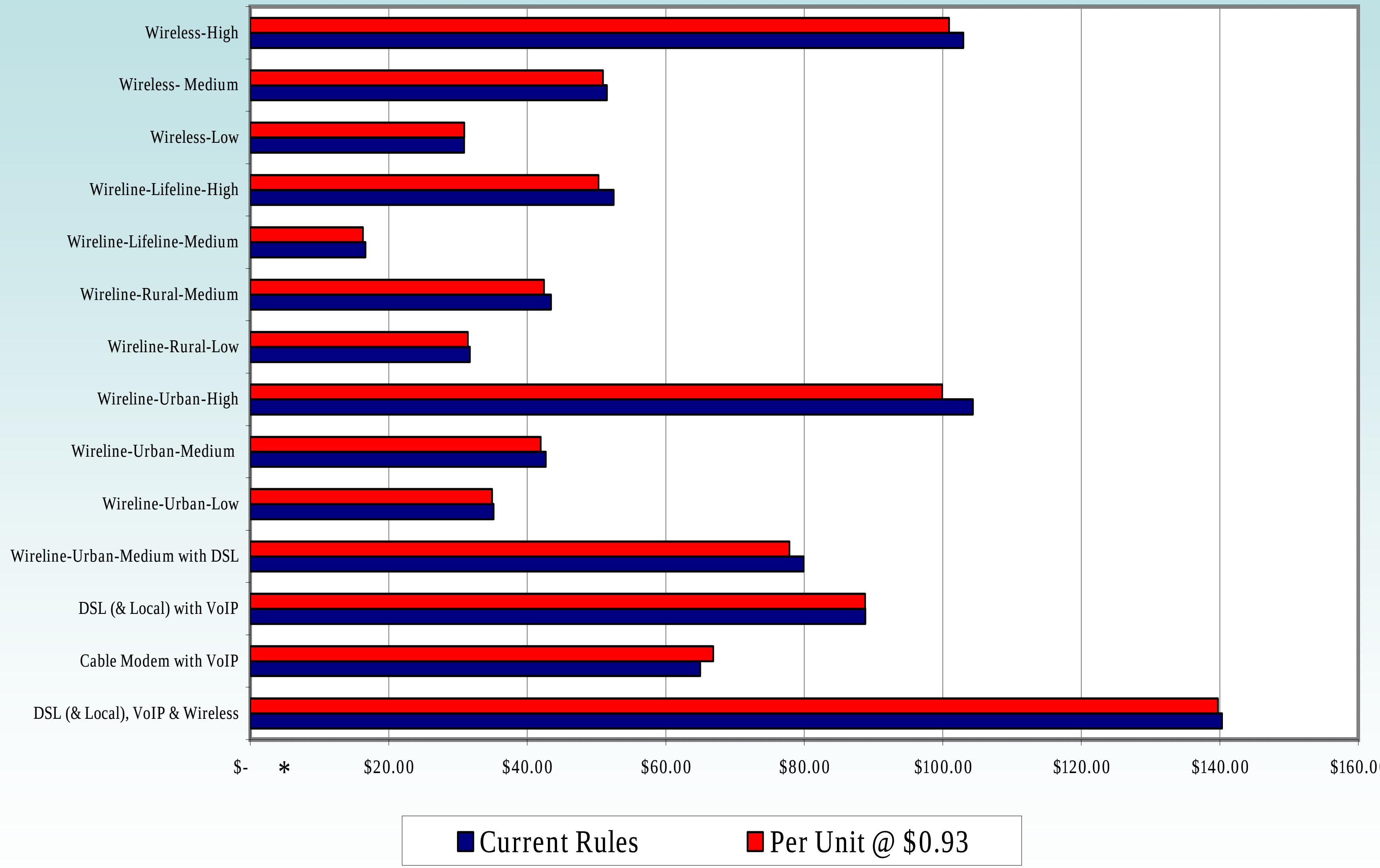
- Auditing WTNs and NACs should generally be easier and more reliable than auditing revenues, but in any event should not be more difficult overall.
- Same general operation as current system:
  - providers extract data from systems they establish to track assessable units and an independent third-party reviews and verifies that process.
- More robust than current revenues based system because providers will not need to make determinations about, for example, how to allocate a bundle of services and which parts of the bundle are assessable. Reduces “garbage in” problem and missing data points.

“Auditability” of WTNs and NACs (cont.)

- The purpose of the audit would be to:
  - Validate the accuracy of self-reported data against data resident in operational databases; and
  - Evaluate the internal controls in place to ensure the accuracy of reported data.

- Effective auditing would be assisted by:
  - Clear compliance criteria, definitions, and standards in FCC rules;
  - Reasonable record retention obligations for contributors and access to those records for auditors.

Customers Total Monthly Bill : Current Rules v. Per Unit @ $0.93



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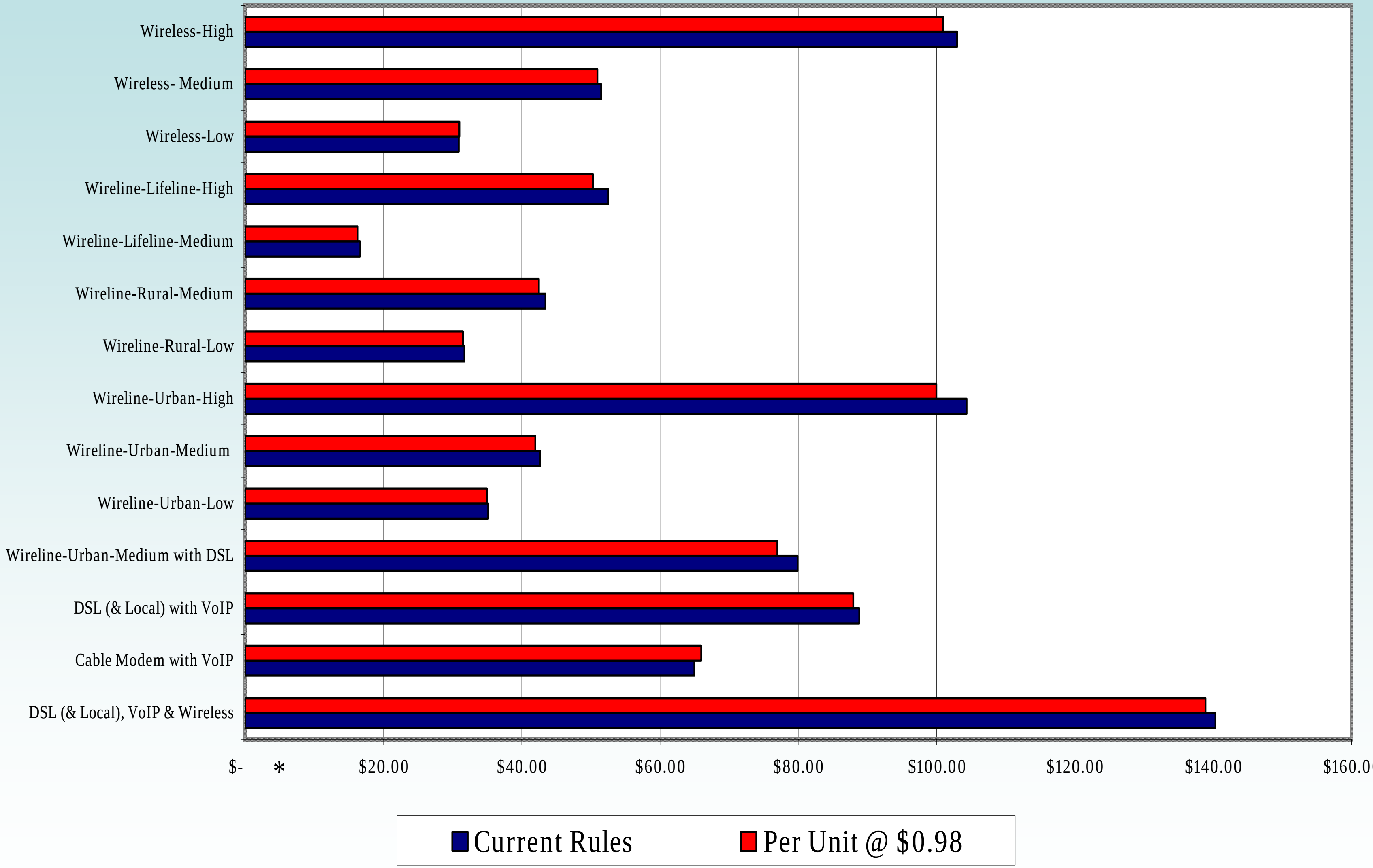
Customers Total Monthly Bill : Current Rules v. Per Unit @ $0.98



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Other Proposals

- <u>Contributions should not be based on carrier revenues.</u>
  - Interstate revenues are increasingly difficult to separate from intrastate.
    - Bundled services
    - Providers that have never been subject to jurisdictional separations
    - IP-based communications
  - Telecommunications revenues are increasingly difficult to separate from non-telecommunications
    - Bundles
    - Difficulty in classifying new services
  - To assess total revenues would require a statutory change and would not solve implementation problems

Other Proposals (cont'd)

- Contributions should not be based on a hybrid combination of telephone numbers and carrier revenues.
  - System would have **all** the implementation problems of a pure revenues approach
  - Additionally, the Commission would be forced arbitrarily to determine how much to collect under a revenue approach and how much to collect based on telephone numbers.

Other Proposals (cont'd)

- <u>Benefits of the ICF's telephone numbers plus connections approach.</u>
  - Telephone numbers provide a base that is easy to count.
  - Per number assessment is affordable and relatively low.
  - No need to classify services or jurisdictions.
  - Simple, straightforward, and easy to administer.
  - By including connections, the ICF makes the system more equitable and less burdensome on consumers, as compared to numbers alone.
    - Enlarges the base, keeping per-unit assessment lower.
    - Ensures that carriers that benefit from universal service contribute, even if they do not use telephone numbers.
  - ICF approach would provide a workable transition if telephone numbers disappear.
    - The Commission should gain experience with administering such a system now, while the amount to be collected can be kept low.
    - That next transition will be smoother if a portion of the fund is already collected on that basis.

Preserving Universal Service

<u>Public Interest Benefits</u>

- The Plan ensures that universal service support is specific, predictable, and sufficient, as required by Section 254.
- The Plan places funding for universal service on firm footing for the future at a time when interstate, end user, telecommunications revenues are shrinking and becoming more difficult to ascertain.
- The Plan ensures that all providers contribute equitably to universal service.
- The Plan eliminates the advantages that today's system creates for some services at the expense of more traditional substitutes.
- The Plan makes the universal service contribution base broader and lessens the resulting burden on individual consumers.

Appendix A - Summary of the Comprehensive ICF Plan

<table>
<tr><th rowspan="3">Step</th><th rowspan="3">Year beginning July 1:</th><th rowspan="3">Network Interconnection</th><th colspan="2">SLC Transition</th><th rowspan="3">Pricing Flexibility for Price Cap Carriers</th><th colspan="4">Intercarrier Payments</th><th rowspan="3">Universal Service</th></tr>
<tr><th rowspan="2">Large Carriers</th><th rowspan="2">CRTCs</th><th colspan="2">Large Carriers</th><th colspan="2">CRTCs</th></tr>
<tr><th>Access Charges</th><th>Non-Access</th><th>Access Charges</th><th>Non-Access</th></tr>
<tr><td>1</td><td>2005</td><td rowspan="2">No Change</td><td rowspan="4">SLC caps rise in a 4-step transition subject to three constraints:

(1) Neither the $6.50 residential SLC cap nor the average residential SLC rate can increase by more than $0.75/month in steps 1 and 2, or by more than $1.00 in Steps 3 and 4.

(2) No individual residential SLC rate can increase by more than $0.95/month in Steps 1 and 2, or by more than $1.20/month in Steps 3 and 4.

(3) Other SLC caps (non-primary residential and MLB) increase only to the extent they would otherwise be below the residential SLC cap.</td><td rowspan="3">Between Step 1 and Step 5, residential SLC caps increase from $6.50 to $9.00 in $0.50 annual increments.

In Steps 1-3, other SLC caps increase only to the extent that they would otherwise be below the residential SLC cap.</td><td rowspan="3">Step 1 SLC pricing flexibility (subject to revenue limits, constraints to prevent shifting recovery from business to residential users, and safeguards to prevent any effect on USF).</td><td rowspan="3">Four equal step plan transitions all interstate and intrastate access charges to SLCs, new universal service support, and a single, uniform rate of $0.000175 per terminating minute.</td><td rowspan="3">At step 1, non-access compensation rates unified at $0.0003525 per minute. Between Step 1 and Step 4, a four-step plan transitions all non-access compensation to SLCs, new universal service support, and a single, uniform rate of $0.000175 per terminating minute.</td><td rowspan="2">Four equal step plan transitions all interstate and intrastate access charges to SLCs, new universal service support, and a single, uniform rate of $0.000175 per terminating minute.</td><td rowspan="2">$0.0125 per minute default recip comp rate established for CRTC-CMRS traffic. Other non-access compensation rates unified at $0.0003525 per minute. Four-step plan transitions all non-access compensation to SLCs, new universal service support, and a single, uniform rate of $0.000175 per terminating minute.</td><td rowspan="8"><u>All at Step 1:</u>

New support mechanisms (ICRM and TNRM) provide support for intercarrier compensation amounts otherwise not recoverable.

Maintain rate-of-return principles for rate-of-return carriers.

Cap removed from rural high cost loop support mechanism.

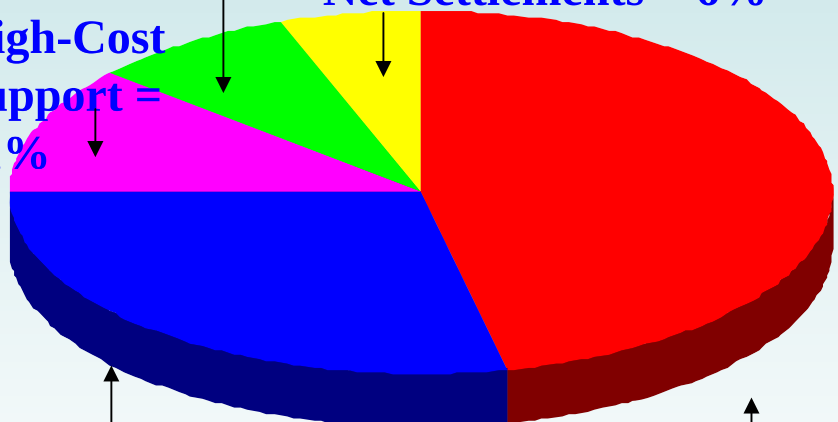
Changes to Safety Valve Mechanism take effect.

Certain rural price cap carriers gain option to elect support from non-rural mechanism.

Telephone number and capacity-based unit contribution methodology replaces current interstate revenue-based system.</td></tr>
<tr><td>2</td><td>2006</td></tr>
<tr><td>3</td><td>2007</td><td rowspan="6">New "Edge" rules take effect.

New rates for edge-to-edge interconnection transport, transiting, and optional CRTC terminating transport take effect.</td><td colspan="2">At Step 3, CRTC option to take terminating transport rates to an average of $0.0095 per terminating minute for interconnecting carriers electing to use such transport to reach CRTC network edges.</td></tr>
<tr><td>4</td><td>2008</td><td rowspan="2">At Step 4, the MLB SLC cap increase to $10.00.</td><td rowspan="5">Additional Step 4 SLC pricing flexibility (subject to safeguards that prevent any effect on USF), including removing end user charges from price caps.</td><td colspan="4">Uniform termination rate of $0.000175 per terminating minute.
(Terminating transport rates for CRTCs preserved).</td></tr>
<tr><td>5</td><td>2009</td><td rowspan="4">All SLC caps uniform at $10.00 (USF calculated accordingly); inflation indexing takes effect</td><td colspan="4">No Change</td></tr>
<tr><td>6</td><td>2010</td><td>(Optional) Residential SLC caps increase to $9.50</td><td colspan="4">Termination rate reduced by 50% to $0.0000875/terminating minute.
(Terminating transport rates for CRTCs preserved).</td></tr>
<tr><td>7</td><td>2011</td><td>(Optional) Residential SLC cap increases to $10.00</td><td colspan="4">Termination rate reduced to zero.
(Terminating transport rates for CRTCs preserved).</td></tr>
<tr><td>8</td><td>2012</td><td>No Change</td><td colspan="4">Termination rate remains at zero.
(Terminating transport rates for CRTCs preserved).</td></tr>
</table>

Appendix A - Components Of Total Additional Federal USF Fund Under ICF Plan*: All ILECs



<u>*@ Step 5 ($ Millions)</u>

1. Rural Support From IC Restructure: $ 1,246
2. Non-Rural Support from IC Restructure: $ 757
3. Changes to High Cost Program Support: $ 300
4. Increase in Lifeline Program Support: $ 216
5. Net Settlements not in the Base: <u>$ 150</u>

Total Additional FUSF $ 2,669